

**REQUEST FOR PROPOSALS  
FOR  
COMMERCIAL LEASE  
OF STATE TRUST LAND**

Bull Pasture Subdivision  
School Trust Land, Miles City, Montana  
SW1/4, Section 26, T8N, R47E



**Montana Department of Natural Resources and Conservation  
Eastern Land Office  
October 28, 2013**

## **TABLE OF CONTENTS**

### **CHAPTER 1 - BACKGROUND**

1.1	Introduction	3
1.2	Key Dates	3
1.3	Proposal Submission Contents	3
1.4	Project Manager	4
1.5	Tract Legal Description	4
1.6	Designated Trust Beneficiary	4
1.7	Location and Physical Description of Property	4
1.8	Inspection	4
1.9	Adjacent Lands	4
1.10	Zoning, Subdivision Review, and Building Permits	5

### **CHAPTER 2 - LIMITATIONS**

2.1	Lease Proposal Limitations	5
-----	----------------------------	---

### **CHAPTER 3 - DETAILS AND INSTRUCTIONS**

3.1	Submission of Lease Proposals	6
3.2	Deadline for Receipt of Lease Proposal	6
3.3	Costs of Preparing Lease Proposal	6
3.4	Modification or Clarification of the Lease Proposal	6
3.5	Application Requirements	6
3.6	Confidentiality of Proposals	7
3.7	Lease Format Term	7
3.8	Insurance and Indemnification	7
3.9	Special Lease Conditions	7
3.10	Right of Rejection	7
3.11	Evaluation Committee	7
3.12	Responsiveness	8
3.13	Proposer Oral Presentation	8

### **CHAPTER 4 - LEASE PROPOSAL FORMAT**

4.1	Transmittal Letter, Application Fee, Bid Bond	8
4.2	Summary of Proposal	8
4.3	Statement of Qualifications, Training, Experience, and Education	9
4.4	Financial Ability, Operating Income, Cash Flow Analysis	9
4.5	Site Plan, Construction, and Operation	9
4.6	Compensation Paid to State	10
4.7	Conflict of Interest	10

### **ATTACHMENTS**

A.	Location and Site Map
B.	RFP Scoring Sheet sample
C.	RFP Evaluation Criteria
D.	Standard Lease Agreement

# REQUEST FOR LEASE PROPOSALS

## CHAPTER 1 - BACKGROUND

### 1.1 Introduction

The Montana Department of Natural Resources and Conservation (DNRC) is the land management agency for Trust Lands in Montana. The purpose of this RFP is to solicit proposals to lease approximately 38.55± acres of school trust land just outside Miles City, in Custer County Montana. The land is zoned Light Industrial which permits opportunities for development of including uses such as: manufacturing, fabrication, assembly and/or material treatment that are conducted in an enclosed structure. The zoning also allows open storage yards, building material yards and warehouses as well as other business and service uses allowed in the General Commercial and Heavy Commercial zoning districts. Any questions regarding specific permitted uses should be directed to the Miles City Planning Department.

### 1.2 Key Dates

Important dates including proposal deadlines are shown below. Formal addenda to this Request for Proposals (RFP) will be issued to the proposers notifying of any change to these dates.

<u>Activity</u>	<u>Date</u>
Release of Proposal	October 28, 2013
Deadline for Questions	November 12, 2013
Distributions of RFP Amendments	November 18, 2013
Deadline to Submit Proposal	December 2, 2013 at 5:00pm

### 1.3 Required Contents For Proposals

1. Transmittal Letter, Application fee
2. Summary of Proposal
3. Statement of Qualifications, Training, Experience, and Education
4. Financial Ability, Operating Income, Cash Flow Analysis
5. Site Plan, Construction, and Operation Plan
6. Compensation Paid to the State
7. Conflict of Interest Statement

## **1.4 Project Manager**

Proposals must be delivered to the Project Manager listed below. For information concerning the Request for Proposals (RFP) process, required format and the schedule of activities, please direct your questions to the Project Manager.

**Jeff Bollman**  
**DNRC, Southern Land Office**  
**1371 Rimtop Drive**  
**Billings, MT 59105**  
**Phone: 406-247-4404**  
**Cell: 406-670-4642**  
**E-mail: [jbollman@mt.gov](mailto:jbollman@mt.gov)**

## **1.5 Tract Legal Description**

The property is located within the SW<sup>1</sup>/<sub>4</sub> Section 26, Township 8 North, Range 47 East, P.M.M., Custer County, Montana.

## **1.6 Designated Trust Beneficiary**

The designated beneficiary of the subject property is the State Reform School. This beneficiary receives revenue and interest produced by compensated use of this land.

## **1.7 Location and Physical Description of Property**

The property offered for lease would be four lots approximately 38.55± acres in size and is generally located on the north side of Ashland Street, east of Haynes Avenue. The approximate location is shown in Attachment A.

## **1.8 Inspection**

An on-site inspection of the property is recommended. Site visits can be arranged by contacting the Project Manager.

## **1.9 Adjacent Lands**

The subject property open to lease is located on the north side of Ashland Street, east of Haynes Avenue. A vicinity map is included in Attachment A.

## **1.10 Zoning, Subdivision Review, and Building Permits**

The Bull Pasture Subdivision is zoned Light Industrial and the permitted uses in this district include:

- (1) Manufacturing, fabrication, assembly process, or materials treatment that is conducted totally within an enclosed structure.
- (2) Open storage yards, building material yards, and warehousing.
- (3) Administrative space associated with a light industrial activity.
- (4) Light industrial activities which do not create or tend to create a nuisance, undue hazard to life or property, or detrimental environmental impacts.
- (5) Those services and businesses permitted under GC General Commercial except for churches, and multiple family dwellings.

(6) Those services and businesses permitted under HC Heavy Commercial.

The Lessee(s) selected for the site will be required to obtain all required development permits from the City of Miles City, Custer County and/or the State as applicable.

## **CHAPTER 2 - LIMITATIONS**

### **2.1 Lease Proposal Limitations**

All Lease Proposals must comply with the following limitations and requirements:

- a. Per MCA 77-1-903, the Land Board shall determine how the development of state trust land for commercial purposes is to proceed before any state trust land is offered for lease. Per MCA 77-1-904 (2) the Land Board may enter into contracts with lessees of state trust land for commercial purposes upon terms and conditions that the board may reasonably determine to be in the best interests of the beneficiary.
- b. The use of the property must not reduce the value of the tract.
- c. Storage or disposal of any toxic, hazardous or deleterious substances must comply with applicable local, state, and federal laws and regulations.
- d. The use of the property must comply with state, federal and local laws.
- e. The Lessee will be solely responsible for all costs to be incurred in the design, development, construction, operation and maintenance of all improvements upon the tract consistent with MCA 77-1-906(1). The State will not be held liable for any costs incurred by the Lessee or any Proposer in the preparation of any proposal, negotiation for lease, or procurement of financing for any portion of the Lease Proposal or lease.
- f. The Lessee will be solely responsible for all design, installation, and costs for the installation and construction by the Lessee of infrastructure and improvements, such as public roads, parks, sewers, or utilities. The exact infrastructure required may be a condition of the local government approval and/or it may be required by the Lessor for reasons including to provide for future development on adjoining Trust land.
- g. The parcel(s) offered is to be located as generally proposed in Attachment A with access via Ashland Street.
- h. The lessee will be responsible for the payment of all taxes, assessments, levies, fees, or other charges assessed upon any property owned by the lessee.
- i. Any proposal not meeting these limitations or other criteria set out in this offering will be rejected at the discretion of DNRC and the Land Board per MCA 77-1-904 (2) and (3).
- j. DNRC reserves the right to waive technical defects in this RFP.
- k. Upon expiration or cancellation of the lease, consistent to MCA 77-1-906(2), the title to all permanent improvements and fixtures located on the leased property and used in the operation

and maintenance of the enterprise vests in the state. The lease must describe in detail the manner and subject matter of the transfer to the state. The DNRC also reserves the right to require the Lessee to remove and/or reclaim all authorized improvements constructed on the parcel during the term of this lease, at the expense of the Lessee.

- l. Per MCA 77-1-907(1) prior to executing a commercial lease, the Land Board may require the posting of bonds, sureties, guarantees, or a letter of credit sufficient to ensure that the commercial purposes will be conducted as proposed with no harm to the financial interests of the beneficiaries. All commercial leases of which the commercial purpose includes the use of a hazardous substance as defined in MCA 75-10-602 must be bonded to ensure a degree of cleanup of the hazardous substance that ensures protection of public health, safety, and welfare and of the environment in a manner that protects the long-term financial interest of the beneficiaries.
- m. DNRC reserves the right to request additional information and data from the Proposer to ascertain Proposer's capabilities and desire to develop the property.
- n. DNRC further reserves the right to reject, at any time before a lease is executed, any application, proposal, or bid determined by DNRC to be contrary to the best interests of the State.
- o. The successful proponent will be responsible for constructing infrastructure, including but not limited to roads, storm sewer and sanitary sewer, to the eastern boundary of the lease area. Additionally, the lessee will be required to extend Ashland Street east of Haynes Avenue including in front of Lot 1. A credit may be granted to the Lessee for the portion of Ashland Street constructed adjoining Lot 1 and the credit amount and timing would be negotiated during the lease negotiations.

## **CHAPTER 3 - DETAILS AND INSTRUCTIONS**

### **3.1 Submission of Lease Proposals**

To be eligible for consideration, Proposers must submit or deliver a sealed copy of their Lease Proposal, as detailed below in the application requirements, to the Project Manager on page 4.

DNRC will maintain an official record of Proposers' names and addresses.

### **3.2 Deadline for Receipt of Lease Proposal**

**Proposals must be mailed or delivered so that they are physically received by the DNRC by the close of business at 5:00 p.m. Mountain Time on December 2, 2013 to be eligible for consideration.** Failure to meet the deadline will result in disqualification of the proposal without review.

The Lease Proposal should be mailed in a sealed envelope. A label must be attached to the outside top left corner beneath the bidder's return address, stating that the contents are: "Response to Bull Pasture Subdivision RFP - Do Not Open until 5:00 p.m. Mountain Time, December 2, 2013."

DNRC assumes no liability for incorrect addresses or failed delivery of Lease Proposal packages by public or private carriers. For expedited delivery, Proposers should make arrangements with the Project Manager.

### **3.3 Costs of Preparing Lease Proposal**

It is the responsibility of the successful Proposer to obtain private financing for all costs associated with the design, construction and operation of their proposal. The Proposer assumes the risk of loss in the submission of any proposal or its operation. DNRC is not liable for any costs or consequential damages incurred by Proposers in proposal preparation, negotiations, or any other costs that may result from activities in connection with this Lease Proposal.

### **3.4 Modification or Clarification the Lease Proposal**

All recipients of this RFP should review its contents for defects and questionable matter. A recipient may make a **written** request for clarification of the RFP. Requests should be submitted in an envelope marked “**Questions Related to the Bull Pasture Subdivision RFP**” and to the attention of the Project Manager no later than November 12, 2013 to ensure sufficient time for adjustments. At its option, DNRC will issue addenda to modify or clarify the RFP by November 18, 2013. DNRC will distribute all addenda in writing to all persons of record under Section 3.1 of this RFP. Protests based upon omissions, error, or the contents of the RFP will be disallowed if the procedures outlined in this paragraph are not followed. No interpretation made to any Proposer as to the meaning of the RFP shall be binding on DNRC unless repeated in writing and distributed as an attachment by DNRC.

### **3.5 Application Requirements**

All Lease Proposals must include a narrative of the proposal containing all of the information requested in the Lease Proposal Format (Chapter 4) section of this RFP.

### **3.6 Confidentiality of Proposals**

All proposals and material submitted become the property of DNRC, but may be returned to the Proposer at the discretion of DNRC. Materials identified as trade secret information in the proposals shall remain confidential upon request from the Proposer. Such request for confidentiality must be in writing and specify the trade secret information to be withheld and the reason for the request. Trade secret requests will be reviewed for applicability and approval by DNRC’s legal counsel. All information deemed not to be trade secrets and other information contained in proposals become public information at bid opening.

### **3.7 Lease Format & Term**

A copy of the standard DNRC lease agreement is included in Attachment C. Pursuant to Section 77-6-109, MCA, and Section 77-6-205, MCA, and subject to Section 77-1-904, MCA, DNRC may issue a lease to the successful Proposer for a term of up to 99 years, however, it is expected the lease term will be an initial term followed by renewal terms, not to exceed 99 years in total. The lease will contain the entire agreement between the parties, and the lease proposal shall not be deemed to be a part of the agreement between the parties unless so designated in the lease. The Lessee will have a reasonable period of time in which to review, negotiate, and accept the final lease agreement.

### **3.8 Insurance and Indemnification**

The selected Lessee will be required to obtain general liability insurance that lists the Lessee and the State as co-insured for all its activities upon the tract. DNRC reserves the right to stipulate coverage based upon the nature of the Lease Proposal. The Lessee will be required to indemnify the State of Montana for all damages it incurs due to any actions of the Lessee.

The successful Lessee will be required to obtain property insurance in an amount sufficient to repair or replace improvements to the parcel. Such certificates of insurance will be held by a Trustee of Insurance to guarantee that the proceeds of such policies are allocated for their intended purposes.

### **3.9 Special Lease Conditions**

DNRC reserves the right to impose special lease conditions and modify the standard terms recited in the lease agreement as deemed necessary to implement the selected proposal, and to protect the interests of trust beneficiaries.

### **3.10 Right of Rejection**

DNRC may reject any or all proposals for a lease, at any time before the lease is executed, when it is in the best interest of the State and trust beneficiaries to do so.

### **3.11 Evaluation Committee**

All proposals received will be reviewed and evaluated by a committee appointed by DNRC. The public may view the committee's deliberations and evaluation of proposals, but may not participate directly in such deliberations.

### **3.12 Responsiveness**

Failure to follow the format outlined in Chapter 4 may result in a lower score and could result in disqualification of the proposal.

### **3.13 Proposer Oral Presentation**

Proposers selected for final evaluation may be required to make an oral presentation of their proposal. Such presentations provide an opportunity for the Proposer to clarify their proposal to ensure mutual understanding. If such presentations are necessary, they will be held at DNRC Southern Land Office in Billings, at times and dates to be announced.

## **CHAPTER 4 - LEASE PROPOSAL FORMAT**

Any request for information by DNRC to the Proposer is solely for the purpose of selecting a proposal and understanding its terms. Such a request shall not be considered to constitute a binding agreement or commitment by DNRC in any manner. Criteria for ranking and selecting a proposal are presented in this Section and in Attachment B.

### **4.1 Transmittal Letter, Application Fee, Bid Bond**

1. Each application shall include a letter of transmittal which:
  - a. Lists the complete name and address of the Proposer(s).
  - b. Lists the name, address, business telephone number, and electronic mail address of an authorized representative who can be contacted by DNRC concerning the proposal.
  - c. Includes the notarized signature of the individual authorized to bind the Proposer. If the Proposer is a corporation, the application must include a copy of the corporate

resolution authorizing the officer or agent to bind the corporation. Applications signed by an attorney-in-fact must include a copy of their power of attorney to bind the principal. If the Proposer is a governmental agency, the signature must be that of a person (or persons) legally authorized to execute documents on behalf of the governing body. Proof of authority to bind the governing body shall be included.

2. A non-refundable \$50.00 lease application fee. This transmittal letter will be considered the Proposer's application for lease through Proposer's Lease Proposal.
3. A bid bond of 10 percent of the proposed annual lease. If the successful Proposer fails to enter into a lease with DNRC then the Proposer will forfeit the bid bond to DNRC.

#### **4.2 Summary of Proposal**

The Proposer should provide the following information as a summary of the proposal:

1. Description of proposed use, including lot size and configuration desired;
2. Demand within the community for the proposed project;
3. Benefit to the community from the proposed project;
4. Compatibility of proposed project with surrounding uses;
5. Acknowledgement of responsibility for payment of all costs associated with the developing of the property.

#### **4.3 Statement of Qualifications, Training, Experience, and Education**

Each Proposer shall list and describe the general partner, managing entity, or principal employees who will directly oversee the development, operation and maintenance of the proposed project. The application shall include a statement of qualifications for each such individual involved in the operation and maintenance of the proposed project. Each statement of qualifications must discuss the person's training, experience, or education that relates to the proposed project. When the Proposer proposes that separate legal entities will possess combined management, fiscal, or legal responsibilities, the application shall describe the legal relationship between the entities. Provide names and addresses of references.

Where the Proposer and their affiliates have prior experience in a project similar to that proposed in this proposal, the Proposer should describe the prior project, its present status, and the profitability of the prior project. The Proposer may list the names, addresses, and telephone numbers of references that have knowledge of the prior project and the Proposer's involvement in the prior project.

#### **4.4 Financial Ability, Operating Income, Cash Flow Analysis**

Per MCA 77-1-907(1) before accepting any offer for a commercial lease, the board shall establish, to its satisfaction, the financial capability of the person seeking the commercial lease and the legal authority of the person to conduct business in the state. The proposal shall include the Proposer's credit report, current accounting balance sheet; and an income statement which accurately and fully discloses the Proposer's current assets, long- and short-term indebtedness, equity, commitments for financing, cash flow, and other relevant facts by which DNRC may fully evaluate the Proposer's financial ability to construct, operate, and maintain its proposed project. Past bankruptcy or loan defaults must also be disclosed. The Proposer may include letters of reference or commitments for financing that it has received from financial institutions. DNRC reserves the right to perform credit checks of all Proposers or request further information.

Include a summary of projected income, costs, and earnings for the first five years of the operation of the proposed project, along with a discussion of the economic assumptions upon which the projections are based. **Any information the Proposer wishes not be disclosed must be clearly identified as confidential.**

#### **4.5 Site Plan, Construction, and Operation**

All proposed buildings, infrastructure, landscaping and other improvements to the property must conform to all land use regulations of the City of Miles City and/or Custer County, Montana. Proposals must be planned with adequate access, drainage and storm water run-off retention/detention so as to meet any jurisdictional authority's requirements. The successful Proposer will be asked to provide proof of acceptance of plans as to this requirement prior to beginning any construction.

The Proposer should include conceptual plans of the following.

- A. The portion of the site desired for lease.
- B. The activities to be conducted, with a site plan to include the following:
  - Proposed uses, location, and scale;
  - Typical rendering or elevation of buildings including building materials & color;
  - Location of roads and sidewalks;
  - Landscape and lighting plan;
  - Phasing plan, if any;
  - Open space and landscaping features.
- C. The number, type, location, and estimated cost of proposed improvements to the site. Per MCA 77-1-911 as provided in Section 2.1 above, response proposals shall include detailed information regarding any improvement district or assessments that the property will become subject to as a result of the development proposed.
- D. The anticipated schedule and plan for construction of the improvements on the state tract.

Proposer should be aware that additional development standards may be required over and above local standards, for example lighting standards, signage standards, landscaping standards, building architecture, parking, and others, depending on design and site planning. DNRC retains site plan review and approval authority.

The successful proponent will be responsible for constructing infrastructure, including but not limited to roads, storm sewer and sanitary sewer, to the eastern boundary of the lease area. Additionally, the lessee will be required to extend Ashland Street east of Haynes Avenue including in front of Lot 1. A credit may be granted to the Lessee for the portion of Ashland Street constructed adjoining Lot 1 and the credit amount and timing would be negotiated during the lease negotiations.

#### **4.6 Compensation Paid to State (Lease Rental)**

The lease fee will be calculated per Section 77-1-905(2), MCA, which provides, in part, that: The annual rent may not be less than the product of the appraised value of the land multiplied by a rate that is 2 percentage points a year less than the rate of return of the unified investment program administered by the Montana Board of Investments pursuant to 17-6-201, MCA.

The Proposer should detail the planned compensation to DNRC for lease of the site based on:

- The **lease rate** to be applied to the parcel value;
  - The minimum lease rate for this proposal is **4%**.

- The appraised value for all four lots is \$1,300,000.
- **Payment period** (annual, semi-annual, quarterly, monthly);
- Desired **lease term** (20 - 99 years), and;
- Other relevant factors.

Regular adjustments to the annual lease payment will be necessary to account for changing land valuations and inflationary factors. **There are a variety of methods for accomplishing this purpose and the proposer is encouraged to identify a preferred method.** Examples of acceptable proposals might include built-in annual escalators and periodic reappraisals.

Per MCA 77-1-905(1), the first year's annual rental payment for state trust land leased for commercial purposes must be paid by cashier's check, and payment is due upon execution of the lease.

DNRC reserves the right to reject any and all bids if the proposed rental is not in the best interest of the State and trust beneficiaries, and the right to negotiate the final lease rental rate with the Proposer selected for the site.

#### **4.7 Conflict of Interest**

Pursuant to Section 77-1-113, MCA, it is unlawful for members of the State Board of Land Commissioners and officers and employees of the Montana Department of Natural Resources and Conservation to purchase or lease, directly or indirectly, any lands of the State. Proposers shall disclose whether such a member, officer or employee has:

1. Assisted the Proposer as counsel, consultant, representative, or agent at any time; or
2. A financial interest in the Lease Proposal; or,
3. Solicited or accepted employment with the Proposer; or,
4. Engaged in any financial transaction for private purposes with the Proposer.

Failure to disclose any of the above-described facts where they have occurred shall result in cancellation of the special lease if awarded to the Proposer.

## ATTACHMENT B

### Evaluation Criteria

#### Name of proposal

#### EVALUATION SUMMARY

Proposal submitted by: \_\_\_\_\_

			<u>Max. Points</u>	<u>Awarded Points</u>
4.1	Transmittal Letter	Complete	Y/N	_____
4.2	Summary of Proposal		200	_____
4.3	Qualifications		400	_____
4.4	Financial Ability		500	_____
4.5	Site Plan, Construction, & Operation		200	_____
4.6	Compensation Paid to State		700	_____
4.7	Conflict of Interest		Y/N	_____
	<b>Total</b>		<b>2,000</b>	_____

#### Conclusion:

\_\_\_\_\_ Proposal is acceptable for Lease Agreement

Comments:

\_\_\_\_\_ Proposal is unacceptable for Lease Agreement

Comments:

Evaluated by: (print) \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## ATTACHMENT C

Evaluator Initials \_\_\_\_\_

### Name of proposal

### SPECIAL LEASE PROPOSAL EVALUATION CRITERIA

**PROPOSAL SUBMITTED BY:** \_\_\_\_\_

4.1	<u>Transmittal Letter</u>	<u>Complete</u>	<u>Incomplete</u>
	Name and address of applicant	_____	_____
	Notarized Signature	_____	_____
	Application Fee	_____	_____
4.2	<u>Summary of Proposal</u>	<u>Max. Points</u>	<u>Awarded Points</u>
	Community Need & Benefit	50	_____
	Compatibility with Surrounding Uses	50	_____
	Lease Term (3 point/year)	<u>100</u>	_____
	<b>Subtotal</b>	<b>200</b>	<b>(_____)</b>
4.3	<u>Qualifications, Experience</u>	<u>Max. Points</u>	<u>Awarded Points</u>
	Statement of Qualifications	200	_____
	Prior Experience	<u>200</u>	_____
	<b>Subtotal</b>	<b>400</b>	<b>(_____)</b>

Evaluator Initials \_\_\_\_\_

4.4	<u>Financial Ability, Cash Flow</u>	<u>Max. Points</u>	<u>Awarded Points</u>
	Financial Statement/References	100	_____
	Creditor Financial Commitment	100	_____
	Analysis of Property Operating Data	150	_____
	Cash Flow Analysis	<u>150</u>	_____
	<b>Subtotal</b>	<b>500</b>	<b>(_____)</b>
4.5	<u>Site Plan, Constr., &amp; Operation</u>	<u>Max. Points</u>	<u>Awarded Points</u>
	Site Plan	50	_____
	Proposed Construction & Operation Schedule	50	_____
	Value/Quality of Improvements	<u>100</u>	_____
	<b>Subtotal</b>	<b>200</b>	<b>(_____)</b>
4.6	<u>Compensation Paid to State</u>	<u>Max. Points</u>	<u>Awarded Points</u>
	Bid Lease Rate (Highest bid = 500 points, others = % of high bid x 500)	500	_____
	Payment Period		
	- Monthly = 0		
	- Annual = 100	100	_____
	Other Compensation	<u>100</u>	_____
	<b>Subtotal</b>	<b>700</b>	<b>(_____)</b>